

InterMedia believes that it is important for the Commission to adopt benchmarks which are flexible and account for as many cost factors as is reasonable, fair and compensatory, and relatively easy to use, and which provide sufficient guidance to franchise authorities to implement and review basic service tier rates. Several key factors significantly affect the cost of providing basic service, and these factors must be considered by the Commission and franchise authorities in developing and applying benchmark rates.

One of the most important factors is the cost of capital. Capital investment defines the technical sophistication of a system. It is important to insure that operators are rewarded for modernizing systems by undertaking rebuilds and upgrades.¹⁶ Although modernization may cost more in the short term, the long term benefits of improved quality and reliability are in the public interest and promote competition. The continued availability and expenditure of capital are essential to ensure that technological development continues at its pre-Act pace.¹⁷

¹⁶ For example, the number of activated channels and the capital investment in headend equipment per subscriber varies among systems and directly affects costs. Also system configuration -- e.g., the number of microwave links, miles of fiber optic plant, etc. -- directly affects costs.

¹⁷ Technological development not only provides the consumer with an expanding array of programming choice, it is also a vital source of export dollars for this country.

The Commission must also consider the cost differences associated with operating cable systems in urban, suburban and rural areas.¹⁸ For example, urban markets generally have significantly higher overall costs due to higher labor costs, more theft of equipment and services, more PEG requirements, higher taxes and franchise fees, and a higher percentage of physical plant located underground.

In contrast, most of a rural cable system's plant is usually above ground and the number of subscribers per mile is relatively low -- two factors which tend to increase operating costs. Fewer subscribers per mile, for example, results in higher installation and service costs, simply because it takes longer to travel between calls and more equipment is required per subscriber.

System size, in terms of number of subscribers, penetration and channel capacity, is another major factor in differentiating cost of operations. The Act itself recognizes different NCE must-carry, commercial must-carry and leased access requirements based on channel capacity.¹⁹ The Commission's surveys also appears to be targeting many of the industry's largest systems for analysis. Such systems may tend to have

¹⁸ Consideration of population factors should also include the cost of subscriber turn-over, particularly with respect to mobile populations such as military barracks and universities.

¹⁹ See, Act Sections 614(b)(1)(A) and (B) [commercial must-carry]; 615(b)(2)(A), 615(b)(3) and 615(e) [non-commercial must-carry]. Leased access channel set asides were established in the 1984 Cable Act, see 47 U.S.C. § 532.

higher channel capacity and higher costs related to demographics and technical sophistication. Again, benchmark rates should reflect these differences.

InterMedia submits that the Commission should require that all determinants of operating cost must be taken into account by the franchising authorities when reviewing rates. In addition, the Commission's regulations should establish that certain costs which are beyond the control of the operator should be passed through to subscribers. Such costs would include municipal costs (e.g., PEG burden, two-way system requirement, taxes, and franchise fees) and retransmission consent fees.

Finally, the Commission must establish an appropriate mechanism for allowing an annual rate increase consistent with inflation, such as the Consumer Price Index ("CPI"). InterMedia submits that the Commission should set a percentage range within which annual rate increases are reasonable. This will allow changes to the benchmark without annual review by the Commission or unnecessary and costly action by a franchise authority.

VI. REGULATION OF RATES FOR EQUIPMENT

A. General Criteria

The Act requires that charges for equipment be based on "actual cost."²⁰ InterMedia believes that actual cost should be defined by the Commission to include, as a first priority, the cost to the cable operator of purchasing different types of basic

²⁰ Benchmarks for each category of equipment need to be established, e.g., converters, remote controls, etc.

equipment, measured over the useful life of the equipment, as well as other cost factors such as administrative costs, loss of equipment due to theft, maintenance, cost of capital, the cost of maintaining inventory, and a fair profit. The monthly charge to the subscriber must be allowed to reflect all of these factors.

The Act also requires the Commission to establish standards, again based on actual costs, for determining rates for equipment used with the basic service tier. The FCC tentatively concludes that equipment covered under this section includes the converter box, the remote control unit, additional outlets, and other inside wiring. NPRM at ¶ 64. In general, InterMedia agrees with the FCC. However, the Commission should clarify that "equipment used with the basic tier" does not mean all equipment that could possibly be used for basic tier service, but rather only that equipment that is functionally required to access basic service. This distinction is important because, as InterMedia commented in the Commission's proceeding on Tier Buy-Through Prohibitions, certain sophisticated equipment is capable of being used to access all tiers, including the basic tier.²¹ However, providing "basic-only" subscribers with such equipment increases the risk of unauthorized reception of programming and unnecessarily increases the cost to the basic service subscriber. Accordingly, the regulation of basic service equipment should be

²¹ Tier Buy-Through Prohibition, "Notice of Proposed Rulemaking," MM Docket No. 92-262, Comments of InterMedia Partners filed January 13, 1992.

limited to that equipment which is functionally or technically required for the service.

The Act also evidences Congress' desire to encourage the development of a market for cable consumer equipment. While InterMedia does not object to the furtherance of such a goal, the FCC must be careful about making a market in addressable converters legitimate. At present, consumers cannot buy addressable converters on the market because it threatens the security of addressable cable systems. Therefore, the FCC must take into account operators' legitimate concerns about security and the unauthorized reception of programming. Addressable converters should not be available from third party vendors.²²

Finally, the Commission asks whether customers purchasing equipment on time from cable operators should be permitted to cancel a purchase agreement because they subsequently become aware that similar equipment is available from another source. NPRM at ¶ 67. While an operator may agree to cancel an equipment purchase contract in order to promote customer goodwill, or agree to refund the price difference of equipment should a customer prove that the same model is available at a lower cost (similar to promotional offerings made by certain credit card companies), there is nothing in the Act that requires the cable operator to engage in such equipment

²² It should be noted that an addressable convertors often cannot be transferred from system to system, even when the two systems use the same encoding scheme. Addressable convertors often are programmed with a system ID to discourage theft.

marketing schemes. Accordingly, InterMedia strongly disagrees that the Act directs the Commission to impose such a requirement.

B. Installation Issues

In general, installation costs include the cost of labor, the costs associated with the purchase and maintenance of the installation vehicles and tools, and the cost of the hardware, such as drops and wiring. However, it is important to understand that cable operators have historically charged less than the actual cost for installation in order to encourage new subscriptions. As a consequence, cable operators should be allowed to average over their entire subscribers base all of the cost components of basic service installation. Furthermore, basic service installation regulations should not preclude operators from offering "package deals" for installation and extended basic which is often used to encourage subscribers to take full basic service.

Further, InterMedia is concerned that channel positioning may dramatically increase the actual costs of installation for basic service. For instance, implementation of must-carry channel elections may require the extensive "trapping out" of signals in non-addressable systems. In such systems, channels are blocked by manually installing or removing "positive" or "negative" traps. The more channels that comprise the basic tier, and the more spread out they are on the system, the more expensive installation will become. Because television signals may be spread across the cable channel spectrum,

installation of basic service alone may well cost much more than the installation of basic and cable programming services together.

In addition, the cost of installation must be an upfront non-recurring charge because the operator does not know how long the subscriber will subscribe to the service. InterMedia anticipates that, on non-addressable systems, any downgrade charge to the basic tier will thus be the same or nearly the same as the initial installation charge for basic only.

While the Act appears to encourage operators to allow subscribers to do their own installations, InterMedia assumes this will be restricted to internal wiring in single family homes. Most outside installations require climbing a telephone pole, which, as a safety issue, should only be accomplished by trained service personnel.²³ In addition, InterMedia notes that most signal leakage occurs at the tap and the drop. The concern is that excessive leakage will result from non-operator installations, causing the operator to fail his annual cumulative leakage index (CLI requirements). As the Commission is well aware, this could result in massive disruption of service to the

²³ The cable television lines are almost always located between the power and telephone lines on a pole. Congress clearly did not intend for the general public to strap on climbing spurs and "shinny up." The utilities take a very dim view of anyone on their poles, except their own personnel or authorized personnel of the cable operator.

public and suspension of service on channels in the aeronautical frequency bands.

C. Additional Outlets

The costs associated with additional outlets are essentially service charges, administrative costs, capital costs of the equipment involved in the installation (e.g., cost of the service vehicle overhead and a reasonable profit. Extra outlets create extra trouble calls, require more wiring and consumer equipment, and have a higher failure rate. Inside wiring maintenance agreements, which would cover everything inside the home, may be the best alternative to separate monthly charges for additional outlets. However, InterMedia assumes that operator would not be prohibited from folding the actual cost of AOs into basic service and offering "whole house" service for which there is no direct charge for AOs.

D. Customer Changes

InterMedia agrees with the Commission that charges for changing service tiers should not exceed a "nominal" charge if the system is addressable. NPRM at ¶ 75.

VII. IMPLEMENTATION AND ENFORCEMENT OF BASIC SERVICE TIER RATES

A. Procedures

After the Commission adopts final rules in this proceeding and certified franchise authorities initially assert their regulatory powers over existing cable service rates, such rates within the benchmark would be presumed to be lawful. Thus,

a franchise authority that wishes to challenge an existing "benchmark" rate, or an existing rate above the benchmark, would be required to initiate the procedures discussed below.

The Act requires cable operators to notify the franchise authority of proposed rate increases 30 days in advance. Assuming a benchmark method of rate regulation is adopted, a cable operator proposing to increase rates within the benchmark should include in its 30-day notice to the franchise authority a statement that the increase is within the benchmark. Such a presumptively lawful increase would automatically go into effect upon the expiration of the 30-day period.²⁴ If the proposed rate is above the benchmark, the operator would submit to the franchise authority its justification of the higher rate. If the franchise authority did not request a hearing within 60 days, the above-benchmark rate would go into effect.

With respect to rates in effect which a franchise authority wished to challenge, such rates would remain in effect pending the outcome of any public hearing initiated by the franchise authority. The franchise authority would be required to notify an operator within 30 days after the franchise authority is certified if it believes that an operator's rates are unreasonable.

²⁴ InterMedia emphasizes that the franchise authority should not have the unilateral authority to stop a rate increase from going into effect if the proposed rate is within the benchmark, since rates within the benchmark are presumed lawful.

Whether a rate is within the benchmark and becomes effective after 30 days, or whether the rate is above the benchmark, InterMedia recognizes that the franchise authority may determine that a public hearing is required.²⁵ InterMedia proposes that the franchise authority should have an additional 30 days (i.e., 60 days from the initial date of notice of the increase) to inform the operator whether a hearing is required and notify the operator of the hearing date. Any scheduled date for a hearing must afford the operator 30 days to prepare, but hearings should not be scheduled more than 60 days after the operator receives a notice that a hearing is required.

InterMedia proposes that the franchise authority be required to issue a written order within 30 days after the public hearing is held.²⁶ The order must include the franchise authority's findings of fact and conclusions of law. Appeal of a franchise authority's final order should be reviewed by the FCC, not state courts as suggested by the Commission. NPRM at ¶ 87. See discussion of the scope of federal preemption in Section IV(E), supra.

B. Burden of Proof

Rate increases within the benchmark are presumed to be lawful. In this situation, the franchise authority must prove

²⁵ To challenge a rate, whether within the benchmark or not, must require a public hearing.

²⁶ If the franchise authority fails to issue an order within the required time period, the rate will be presumed valid.

that the cable system does not fall within the operator's designated benchmark category. If the franchise authority prevails, then a rate rollback may be appropriate, but absent a bad faith showing by the operator, refunds should not be ordered. Instead, the franchise authority may order that prospective rates be lowered by an amount necessary to recover the amount in controversy. Afterward, the rate would increase to the permitted rate. Conversely, if the operator files a rate increase that is above the benchmark, then the operator may be required to demonstrate that the rate is reasonable.

C. Definition of Rate Increase

InterMedia agrees with the Commission that price changes caused by factors beyond the control of operator are not rate increases subject to notice requirement, and may be passed through to subscriber. NPRM at ¶ 83. Such factors should include: taxes; franchise fees; copyright fees; retransmission consent fees; and increases in PEG costs. While InterMedia would still provide notice of such an increase, price changes attributable to such factors would not trigger any of the procedural review noted above.

VIII. CABLE PROGRAMMING SERVICES

A. In General

With regard to cable programming services, InterMedia supports the adoption of a rate methodology which takes into account the unique individual system characteristics which affect the operator's cost, namely its contractual programming costs and

its specific operating costs to deliver such cable programming services. As the FCC recognizes, however, there is a trade-off between severe restrictions on the basic service tier and rates for cable programming services. NPRM at ¶ 94. InterMedia submits that the structure of the Act reveals Congress' intent to allow local authorities closer scrutiny of the basic service tier and basic equipment rates, which are required for access to cable television service, and allows the FCC greater flexibility in its review of rates for cable programming services. InterMedia does not believe that the Act requires the Commission to adopt regulations which have the effect of subsidizing the basic tier with revenue generated from cable programming services. Rather, the Commission should develop a rate methodology for cable programming services which recognizes that the only appropriate factors in this tier are the contractual programming costs and the operating costs to deliver such cable programming services (e.g., administration and overhead, costs of traps and other channel blocking devices, etc.).

The broad discretion afforded the Commission to review cable programming services under the Act is demonstrated by the Act's requirement that the Commission establish standards for determining when cable programming service rates are "unreasonable." Whether a rate is unreasonable must be determined on a case-by-case basis. It is clear that the reason Congress vested the review of cable programming rates in the Commission rather than local authorities was to promote uniform

precedent and interpretation of this provision of the Act. By establishing standards by which to review the unreasonableness of rates on a case-by-case basis which considers specific facts and circumstances, a Commission determination that an operator's particular cable programming service rates are unreasonable will provide the necessary guidance to define "reasonable" rates for such services. See NPRM at ¶ 91, fn. 127.

InterMedia emphasizes that, in response to the Commission comments in ¶ 96 of the NPRM, the "cable programming service tier" should not include traditional stand-alone channels which the operator may offer as a package for purposes of offering a discounted rate. As long as those premium and pay channels are also offered a la carte, discounted packages of premium pay channels are not a "tier" which would subject such an offering to rate regulation.

The Commission asks whether customer equipment used in conjunction with cable programming services would be subject to regulation. NPRM at ¶ 92, n.129. Unlike equipment used with basic tier service which is specifically singled out for separate regulatory consideration, cable programming service equipment is identified in the Act only as one of several factors to be considered in reviewing the overall rate for this program tier. Since some of the cost of consumer equipment used for the cable programming service tier is included in the cost of the service, InterMedia submits that this equipment should not be subject to additional regulation over and above consideration of whether a

rate for the cable programming tier is, as a whole,
"unreasonable."

B. Minimum Showing Required for Complaints

The Act requires the Commission to establish procedures for reviewing complaints which make a minimum showing that a cable operator's cable programming service rates are unreasonable. As set forth below, InterMedia believes that the Commission should establish a process which separates complaints that are sufficient in content and reviewable, from complaints which lack the requisite information.

First, all plaintiffs must show standing. The plaintiff must either be the city (or franchise authority) or a subscriber at the time the complaint is filed. If a subscriber, the plaintiff must be subscribing to the service and paying the rate which is the subject of the complaint. A sufficient allegation of standing would also require that the plaintiff identify the cable system and the community being served.

All statements made in a complaint must be made under penalty of perjury and signed by the plaintiff or an attorney. This minimum requirement is necessary to avoid frivolous complaints.

The complaint must be timely filed. The Act provides that an initial complaint may be filed within 180 days of the effective date of regulations promulgated by the Commission. Subsequently, complaints with respect to new rate increases should be filed within 30 days of notice by the cable operator of

a rate increase. If a complaint is not filed within an appropriate time period, then the right to complain is forfeited.

C. Procedures for Filing Complaints

A complaint filed by a subscriber which asserts proper standing and makes the necessary minimum allegations would be considered by the Commission, and a copy served on the cable operator.²⁷ The operator would then have 30 days to respond. In contrast, municipalities or franchise authorities should be required to serve the cable operator at the time its complaint is filed with the FCC. Since these entities are presumed to understand the benchmark method of rate regulation (especially if the franchise authority is certified by the FCC), municipalities and franchise authorities should be required to make a prima facie showing that a rate is above the benchmark or that a benchmark rate was incorrectly applied. The failure of a city or franchise authority to allege either of these two factors should result in the dismissal of the complaint.

With respect to subscriber complaints which are insufficient, either because of form or content, the Commission should respond by providing the complainant with a form which outlines the appropriate information necessary for the party to correct the complaint. Sending the form would serve to

²⁷ The complainant should show that the proposed rate is not within the Commissions' benchmark for the system in question. If this is not done, the Commission should provide the subscriber a form to verify the appropriate benchmark rate. See discussion infra.

acknowledge the complaint, and it should contain the FCC's benchmark schedule of rates, and should instruct the plaintiff how to determine the appropriate benchmark rate.

InterMedia believes that the FCC should not dismiss a subscriber complaint without giving the plaintiff an opportunity to state the complaint in the correct form and make the necessary allegations, since Congress intended that individuals would be able to file complaints without the aid of an attorney.

D. Relief Available

The FCC tentatively concludes that the Act permits it to reduce rates and order refunds. However, the FCC also recognizes that refunding to actual subscribers the amount of an overcharge could be administratively unfeasible. NPRM at ¶ 108. InterMedia agrees that such a requirement would be unfeasible. Therefore, if it is determined that the cable operator overcharged for the service, the FCC may order prospective rate reductions which would cover the overcharge. Once the amount in controversy was recovered, the rate would automatically increase to the permitted rate.

IX. PROVISIONS APPLICABLE TO ALL CABLE SERVICES

A. Geographically Uniform Rate Structure

The Act requires cable operators to provide cable service at a rate which is "uniform throughout the geographic area in which cable service is provided." If a "cable system" includes those contiguous community units served by a single headend, then one cable system may serve several franchise areas.

Because different franchise authorities may impose varying requirements on a system, it is important for the Commission to acknowledge in its rules that a "uniform rate structure" within one cable system may not result in the same rate for the same service. Municipal costs²⁸ which are beyond the control of the operator may result in variances in the rates charged within a cable system.

B. Negative Option Billing

The negative option billing provision of the Act prohibits operators from charging customers for any service or equipment which the customer has not affirmatively requested. The Commission tentatively concludes from the legislative history that this provision does not apply to "changes in the mix of programming services." NPRM at ¶ 118, citing, Conference Report at 65. InterMedia agrees with the Commission's assertion that the addition or deletion of certain signals from a program tier, or general retiring required to implement the provisions of this Act, are not within the scope of the "negative option" provision.²⁹ In addition, system-wide upgrades which may affect the price of service should not be considered "negative options."

²⁸ Such costs would include costs for setting aside channels for public, educational and governmental use, taxes, and franchise fees.

²⁹ As the Commission is aware, implementation of the must-carry/retransmission consent elections will require the addition or deletion of broadcast signals in many instances.

All of these categories of changes relate to operator flexibility in developing new products for the consumer and in marketing such services. The FCC must make clear that such changes are not negative options and are permitted under the Act. State and/or local regulation which interferes with the operator's flexibility to change the mix and level of program services, and/or generally upgrade the system, must be preempted. Any disputes regarding whether the operator's conduct is a violation of the negative option provision should be resolved by the Commission.

C. Evasion of Rate Regulation

The Commission has solicited comment on how to prohibit the evasion of rate regulations by cable operators. Consistent with the remarks made above, InterMedia agrees with the FCC's view that the following actions taken by cable operators would not be considered evasion: (1) retiering to comply with basic tier requirements; (2) retiering that does not change the ultimate price for the same mix of channels; and (3) retiering with rate changes that are consistent with regulations promulgated by the Commission. NPRM at ¶ 127.

InterMedia anticipates that regulations ultimately adopted by the Commission in this proceeding will provide sufficient guidance for the public, franchise authorities, and cable operators to determine where the line is drawn between reasonable and unreasonable rates and practices in the provision of cable television service. At a minimum, an act of "evasion"

includes an element of deceit or intent to frustrate the law. It would seem, therefore, that unless some requisite level of unlawful intent was demonstrated by a cable operator, a finding of evasion would not be appropriate.³⁰ It is difficult, however, to attempt to generally define practices which may constitute evasion. Therefore, InterMedia submits that the application and interpretation of this type of adjudicatory provision must be reviewed on a case-by-case basis.

D. Small Systems Exceptions

Congress recognized that the implementation of this statute would create significant burdens on the industry, particularly on small cable systems. As the Commission notes, "small systems tend to have higher costs and charge lower rates." NPRM at ¶ 131. InterMedia supports the view that cable systems with 1,000 subscribers or less should only be required to certify that they are in compliance with the Commission's rate regulations, and that such systems should be exempted from all other reporting requirements and from the procedural and administrative aspects of rate regulation. To insure that a small system's rates for basic tier and cable programming services are reasonable, the Commission should rely on the complaint process set forth herein.

³⁰ For example, if an operator proposes a rate increase that it reasonably believes is justifiably above the benchmark rate, and after consideration the rate is ultimately not justified, the operator should not be considered guilty of evasion.

In addition, MSO and non-MSO systems should not be treated differently for purposes of determining whether a system is "small." The "small system" designation should simply be defined as a system comprised of contiguous community units served by a technically integrated configuration which serves fewer than 1,000 subscribers. This is consistent with other Commission rules, such as network non-duplication protection requirements, which establishes a 1,000 subscriber limit, and does not make a distinction between MSO and non-MSO systems.³¹

E. Effective Date

The Act requires the Commission to adopt regulations in this proceeding by April 3, 1993. The Commission recognizes, however, that operators may not be able to implement the new regulations by April 3. InterMedia agrees with this observation. Assuming the Commission adopts a benchmark method of rate regulation for the basic tiers and other standards for cable programming services, it is not clear that the Commission will be able to set such benchmarks and such standards by that date. Even if the Commission is able to meet this deadline, operators will need at least 90 days to implement any necessary changes in system configuration and to send the required rate notices to subscribers, the franchise authorities, and/or the FCC. As the Commission anticipates, the effect of the regulations adopted in this proceeding is likely to encourage, if not require, the

³¹ 47 C.F.R. § 76.95(a). See also, 47 C.F.R. § 76.156(b) and § 76.601(e).

retiering of certain programming. As a technical matter, on non-addressable systems channel blocking devices may also need to be installed or removed, which would require personnel to make service calls.

However, the most important factor which the Commission must consider in adopting an implementation schedule for compliance with rate regulation is the effective date and implementation schedule for the must-carry and retransmission consent provisions of the Act. All must-carry and retransmission consent signals are required to be placed on the basic tier. Until the must-carry/retransmission consent elections are made and those decisions implemented, the operator will not even know which signals will comprise the basic tier. Further, the Act requires that the cost of delivering broadcast signals be included in the basic tier rate base. Until retransmission consent negotiations are completed, operators will not know how much retransmission consent fees will cost. InterMedia submits that it will be impossible for operators to establish rates until the must-carry and retransmission requirements of the Act are implemented.

X. COMMERCIAL LEASED ACCESS CHANNELS

The Act requires the Commission to establish regulations governing the maximum reasonable rates for leased commercial access channels. InterMedia submits that the Commission will be faced with two significant problems in attempting to establish such a rate cap. First, there is no

generally available information on rates for commercial leased access channels. The FCC would have to gather the applicable information before determining whether developing a benchmark rate for these channels is feasible or appropriate.

Second, the only way to determine whether a rate for a particular channel is reasonable will depend primarily on how the channel will be used. For example, programming directed toward specialized audiences will have a smaller audience reach, and presumably would generate less revenue.³² The Commission cannot put itself in the position of judging the relative value of program content.

InterMedia submits that the Commission should initially encourage the cable operator and a lessee to negotiate rates for leased access channels. A rate agreed upon by the parties should be presumed to be reasonable. If a rate can not be agreed upon, then the parties could rely on the Commission's complaint procedures. However, any meaningful review of the reasonable of leased access rates should be aided by the collection of data in the annual form over the next several years.

³² For example, a university medical school might wish to lease a channel to demonstrate surgical techniques for its students and practicing physicians in the area. Such a channel would not be available to the general subscribership of the cable system, and most likely would not generate advertising revenue. Therefore, it would be inappropriate to compare per channel rates charged for such specialty channels with other per channel programming.

XI. CONCLUSION

In light of the alternatives, InterMedia supports the Commission's view that a benchmark method of rate regulation for basic tier service can be implemented in a manner that establishes fair and compensatory rates, and provides operators flexibility to market their services and satisfy consumer demand. InterMedia emphasizes that benchmark rate regulation must take into account those characteristics of different cable systems which directly affect costs, such as those discussed herein.

Moreover, rate regulation cannot be effectively accomplished in a vacuum. It is crucial for the Commission to consider the impact that basic tier rate regulation will have on rates for cable programming services and premium services. In addition, the impact of the Act's other requirements -- retransmission consent fees, channel blocking requirements for indecent programming on leased access channels, and must-carry channel positioning rights -- will have significant cost impacts on cable television rates, and these requirements must also be considered.

Finally, procedures for the review and consideration of rates by both the Commission and franchise authorities, must be constructed in a way that offers all interested parties an opportunity to participate, and does take an inordinate amount of time to resolve. The FCC should take a strong leadership role in developing policies and procedures which are flexible and provide franchise authorities sufficient guidance to administer local

regulatory oversight in a uniform manner. The Commission should also exercise its preemptive authority to assert jurisdiction to review franchise authorities' determinations on basic tier rates and effective competition findings, or where the franchise authority lacks the ability to competently review cost of service showings.

Based on the foregoing, InterMedia Partners respectfully requests that the Commission consider the concerns and proposals raised herein and incorporate them into the final rules governing the regulation of cable television rates.

Respectfully submitted,

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